



General Assembly

***Amendment***

***February Session, 2006***

**LCO No. 4197**

**\*SB0043104197SD0\***

Offered by:

SEN. DAILY, 33<sup>rd</sup> Dist.  
SEN. COOK, 18<sup>th</sup> Dist.  
REP. SPALLONE, 36<sup>th</sup> Dist.  
REP. SHARKEY, 88<sup>th</sup> Dist.

REP. WITKOS, 17<sup>th</sup> Dist.  
REP. GIULIANO, 23<sup>rd</sup> Dist.  
REP. O'CONNOR, 35<sup>th</sup> Dist.

To: Senate Bill No. **431**

File No. 447

Cal. No. 332

***"AN ACT CONCERNING RETIREMENT OF PROBATE JUDGES  
AND EMPLOYEES, THE FEES OF THE PROBATE COURT SYSTEM  
AND PROBATE COURT JURISDICTION OF APPLICATIONS FOR  
VOLUNTARY OR INVOLUNTARY REPRESENTATION OF A  
PERSON ADMITTED TO A HOSPITAL."***

1 Strike lines 1 to 98, inclusive, in their entirety and substitute the  
2 following in lieu thereof:

3 "Section 1. (*Effective from passage*) The Probate Court Administrator,  
4 subject to the approval of the Connecticut Probate Assembly, shall  
5 obtain the services of an independent financial advisor, or similar  
6 expert, to develop a proposed mechanism for the compensation of  
7 judges of probate. Such proposed mechanism shall take into account  
8 the health insurance and retirement benefits provided to judges of  
9 probate under current law and the time and skills reasonably  
10 necessary to perform the duties of a judge of probate. The cost of such  
11 services shall be paid from the Probate Court Administration Fund

12 established under section 45a-82 of the 2006 supplement to the general  
13 statutes, as amended by this act. Not later than September 1, 2006, the  
14 Probate Court Administrator shall submit a report containing such  
15 proposed mechanism and any recommended legislation to the joint  
16 standing committee of the General Assembly having cognizance of  
17 matters relating to the judiciary, in accordance with the provisions of  
18 section 11-4a of the general statutes.

19 Sec. 2. (*Effective from passage*) The Probate Court Administrator shall  
20 prepare a written report detailing the experience of the regional  
21 children's probate court established pursuant to subsection (b) of  
22 section 45a-8a of the 2006 supplement to the general statutes. Not later  
23 than May 31, 2006, the Probate Court Administrator shall submit the  
24 report required under this section to the joint standing committees of  
25 the General Assembly having cognizance of matters relating to the  
26 judiciary and human services, in accordance with the provisions of  
27 section 11-4a of the general statutes.

28 Sec. 3. (*Effective from passage*) (a) The Probate Court Administrator,  
29 in consultation with the Commissioner of Children and Families, shall  
30 develop a written implementation plan for the establishment of  
31 additional regional children's probate courts pursuant to subsection (c)  
32 of section 45a-8a of the 2006 supplement to the general statutes. The  
33 implementation plan shall, at a minimum: (1) Identify the regions, and  
34 the probate districts located in such regions, that may be designated  
35 for the establishment of such courts; (2) describe the selection process  
36 for towns and cities that may participate in the establishment of such  
37 courts, including the method of determining the willingness of such  
38 towns and cities to participate; (3) outline the anticipated costs of  
39 establishing such courts based on the experience of any regional  
40 children's probate courts established prior to the effective date of this  
41 section; and (4) describe the roles of any state agencies that may  
42 participate in such courts, including, but not limited to, the  
43 Department of Children and Families and the Department of Mental  
44 Health and Addiction Services, and address whether such agencies  
45 should provide financial contributions to the operation of such courts

46 for services provided to clients of such agencies.

47 (b) Not later than May 31, 2006, the Probate Court Administrator  
48 shall submit the implementation plan required under this section to  
49 the joint standing committees of the General Assembly having  
50 cognizance of matters relating to the judiciary and human services, in  
51 accordance with the provisions of section 11-4a of the general statutes.

52 Sec. 4. (NEW) (*Effective from passage*) Notwithstanding the provisions  
53 of subsection (c) of section 45a-8a of the 2006 supplement to the  
54 general statutes, except for the regional children's probate courts in  
55 New Haven, Meriden-Wallingford and New London, no additional  
56 regional children's probate courts may be established pursuant to said  
57 subsection. Not more than seven hundred fifty thousand dollars,  
58 annually, may be expended from the Probate Court Administration  
59 Fund for the regional children's probate courts, unless additional  
60 funds for such courts are approved by the Connecticut Probate  
61 Assembly.

62 Sec. 5. (*Effective from passage*) The Probate Court Administrator, in  
63 conjunction with the Connecticut Probate Assembly, shall study the  
64 adequacy of the Probate Court Administrator's enforcement authority  
65 with respect to a judge of probate in any situation involving  
66 noncompliance or other conduct of such judge that does not warrant  
67 the filing of a complaint with the Council on Probate Judicial Conduct  
68 pursuant to section 45a-63 of the general statutes. The study shall  
69 include, but not be limited to, a consideration of the imposition of  
70 monetary sanctions in appropriate situations. Not later than September  
71 1, 2006, the Probate Court Administrator shall submit a report  
72 containing the Probate Court Administrator's findings and  
73 recommendations, including any recommended legislation, to the  
74 Chief Justice of the Supreme Court and the joint standing committee of  
75 the General Assembly having cognizance of matters relating to the  
76 judiciary, in accordance with the provisions of section 11-4a of the  
77 general statutes.

78       Sec. 6. (*Effective from passage*) The Probate Court Administrator, in  
79       conjunction with the Connecticut Probate Assembly, shall prepare a  
80       report identifying potential opportunities for the voluntary  
81       consolidation of existing probate districts to achieve a minimum  
82       weighted-workload in each probate district. The report shall take into  
83       consideration: (1) The adequacy of existing court facilities; (2) the  
84       potential expense of expanded court facilities; (3) any reasonable  
85       impact of consolidation on travel to and from consolidated court  
86       locations; and (4) the impact of any anticipated increase in the number  
87       of regional children's probate courts, pursuant to subsection (c) of  
88       section 45a-8a of the 2006 supplement to the general statutes, on the  
89       existing workload of other probate courts. Not later than September 1,  
90       2006, the Probate Court Administrator and the Connecticut Probate  
91       Assembly shall jointly submit an initial report under this section to the  
92       chief elected official of each town and city affected by any such  
93       consolidation, for comment. Not later than December 31, 2006, the  
94       Probate Court Administrator and the Connecticut Probate Assembly  
95       shall jointly submit the final report under this section, including any  
96       comments made by any such chief elected official, to the Chief Justice  
97       of the Supreme Court and the joint standing committee of the General  
98       Assembly having cognizance of matters relating to the judiciary, in  
99       accordance with the provisions of section 11-4a of the general statutes.

100       Sec. 7. Section 45a-27 of the general statutes is repealed and the  
101       following is substituted in lieu thereof (*Effective October 1, 2006*):

102       (a) Each person who is elected to a first term as a judge of probate  
103       after [October 1, 1993,] the effective date of this section shall complete  
104       the training program established pursuant to subsection (b) of this  
105       section and pass the examination required pursuant to subsection (d)  
106       of this section.

107       (b) The Probate Court Administrator, subject to the approval of the  
108       Connecticut Probate Assembly, shall establish, supervise and fund a  
109       program of training for newly-elected probate judges that shall  
110       include: (1) A course [to be taken between the date of election and the

111 date of assuming office] concerning the rules of judicial conduct for a  
112 judge of probate, the ethical considerations arising in that office, the  
113 operation of a probate court, and the availability of assistance for a  
114 judge in the operation of a probate court; and (2) courses [to be taken  
115 within six months after the date of assuming office] that provide  
116 fundamental training in (A) civil procedure, including constitutional  
117 issues, due process, and evidentiary considerations, (B) property law,  
118 including conveyancing and title considerations, (C) the law of wills  
119 and trusts, and (D) family law in the context of the probate courts. The  
120 courses required by this subsection shall be taken between the date of  
121 election and the date of assuming office.

122 (c) The curriculum for the courses required by subsection (b) of this  
123 section shall be established by the Probate Court Administrator,  
124 subject to the approval of the Connecticut Probate Assembly, and shall  
125 be designed to establish a minimum level of proficiency by judges of  
126 probate. The courses shall be given by qualified instructors approved  
127 by the Probate Court Administrator. The Probate Court Administrator  
128 may waive completion of a course required by subdivision (2) of  
129 subsection (b) on demonstration by a probate judge of proficiency in  
130 the subject matter. The Probate Court Administrator may, for good  
131 cause, allow a probate judge to satisfy a requirement of subsection (b)  
132 of this section by auditing, at the office of the Probate Court  
133 Administrator or at such other place as the Probate Court  
134 Administrator may designate, instructional tapes approved by the  
135 Probate Court Administrator. [The Probate Court Administrator shall  
136 adopt appropriate time requirements for training of a probate judge  
137 elected in a special election and may modify other requirements of this  
138 section as circumstances may require.]

139 (d) Upon completion of the courses required by subsection (b) of  
140 this section, and prior to the date of assuming office, each newly-  
141 elected probate judge shall demonstrate competency in the subject  
142 matters set forth in said subsection by achieving a passing grade on an  
143 examination given by the Probate Court Administrator. Such  
144 examination shall be developed by the Probate Court Administrator,

145 subject to the approval of the Connecticut Probate Assembly.

146 (e) The Probate Court Administrator shall adopt appropriate time  
147 requirements for the training and examination of a probate judge  
148 elected in a special election and may modify the requirements of this  
149 section as circumstances may require.

150 Sec. 8. Section 45a-27a of the general statutes is repealed and the  
151 following is substituted in lieu thereof (*Effective October 1, 2006*):

152 (a) If a probate judge is unable to complete the training or  
153 examination required pursuant to section 45a-27, as amended by this  
154 act, within the time required, such judge may request an extension of  
155 time for completion of the training or examination from the continuing  
156 education committee of the Connecticut Probate Assembly. The  
157 committee may, for cause shown, grant the requested extension of  
158 time.

159 (b) If a probate judge fails to complete the training required  
160 pursuant to section 45a-27, as amended by this act, or to take or pass  
161 the examination required pursuant to said section 45a-27, within the  
162 time required, or within any extension of time granted pursuant to  
163 subsection (a) of this section, such judge shall be disqualified to hear  
164 any matter as a judge of probate until such time as the judge satisfies  
165 the requirements of section 45a-27, as amended by this act, and the  
166 Probate Court Administrator may refer the judge to the Council on  
167 Probate Judicial Conduct for failure to maintain professional  
168 competence as a judge of probate by so failing to complete [the  
169 training program pursuant to section 45a-27] such training or to take  
170 or pass such examination.

171 Sec. 9. Section 45a-77 of the general statutes is repealed and the  
172 following is substituted in lieu thereof (*Effective October 1, 2006*):

173 (a) The Probate Court Administrator may attend to any matters  
174 [which] that the Probate Court Administrator deems necessary for the  
175 efficient operation of courts of probate and for the expeditious

176 dispatch and proper conduct of the business of [those] such courts. The  
177 Probate Court Administrator or the Connecticut Probate Assembly  
178 may make recommendations to the General Assembly for legislation  
179 for the improvement of the administration of the courts of probate.

180 (b) (1) The Probate Court Administrator may issue regulations,  
181 provided such regulations are approved in accordance with this  
182 subsection. Such regulations shall be binding on all courts of probate  
183 and shall concern [the] auditing, accounting, statistical, billing,  
184 recording, filing and other court procedures. (2) The Probate Court  
185 Administrator may adopt regulations, in accordance with chapter 54,  
186 provided such regulations are approved in accordance with this  
187 subsection. Such regulations shall be binding on all courts of probate  
188 and shall concern the availability of judges, court facilities, [court  
189 personnel and records, hours of court operation] court records and  
190 telephone service. (3) Either the Probate Court Administrator or the  
191 [executive committee of the] Connecticut Probate Assembly may  
192 propose such regulations. Any regulation proposed by the Probate  
193 Court Administrator under this subsection shall be submitted to the  
194 [executive committee of the] Connecticut Probate Assembly for  
195 approval. Any regulation proposed by the [executive committee of the]  
196 Connecticut Probate Assembly under this subsection shall be  
197 submitted to the Probate Court Administrator for approval. If either  
198 the Probate Court Administrator or the [executive committee of the]  
199 Connecticut Probate Assembly fails to approve a proposed regulation  
200 under this subsection, such proposed regulation may be submitted to a  
201 panel of three Superior Court judges appointed by the Chief Justice of  
202 the Supreme Court. The panel of judges, after consideration of the  
203 positions of the Probate Court Administrator and the [executive  
204 committee of the] Connecticut Probate Assembly, shall either approve  
205 the proposed regulation or reject the proposed regulation.

206 (c) The Probate Court Administrator shall issue regulations,  
207 provided such regulations are approved in accordance with this  
208 subsection. Such regulations shall be binding on all courts of probate  
209 and shall establish minimum standards for (1) hours of court

210 operation, (2) court staffing, taking into consideration the need for  
211 adequate coverage for employee absence due to the use of vacation  
212 time, sick time and personal leave days, and (3) the allowable  
213 workload per full-time court employee. Any regulation proposed by  
214 the Probate Court Administrator under this subsection shall be  
215 submitted to the Connecticut Probate Assembly for approval. If the  
216 Connecticut Probate Assembly fails to approve a proposed regulation  
217 under this subsection, such proposed regulation may be submitted to a  
218 panel of three Superior Court judges appointed by the Chief Justice of  
219 the Supreme Court. The panel of judges, after consideration of the  
220 positions of the Probate Court Administrator and the Connecticut  
221 Probate Assembly, shall either approve the proposed regulation or  
222 reject the proposed regulation.

223     ~~[(c)]~~ (d) The Probate Court Administrator shall regularly review the  
224 auditing, accounting, statistical, billing, recording, filing and other  
225 procedures, the hours of operation and the staffing of the several  
226 courts of probate.

227     ~~[(d)]~~ (e) The Probate Court Administrator shall, personally, or by an  
228 authorized designee of the Probate Court Administrator who has been  
229 admitted to the practice of law in this state for at least five years, visit  
230 each court of probate at least once during each two-year period to  
231 examine the records and files of such court in the presence of the judge  
232 of the court or the judge's authorized designee. The Probate Court  
233 Administrator shall make [whatever] such additional inquiries [are  
234 deemed] as the Probate Court Administrator deems appropriate, to  
235 ascertain whether the business of the court, including the charging of  
236 costs and payments to the State Treasurer, has been conducted in  
237 accordance with law, rules of the courts of probate and the canons of  
238 judicial ethics, and to obtain information concerning the business of  
239 the courts of probate [which] that is necessary for the [administrator]  
240 Probate Court Administrator to perform properly the duties of the  
241 office.

242     Sec. 10. Subsection (i) of section 45a-82 of the 2006 supplement to the



243 general statutes is repealed and the following is substituted in lieu  
244 thereof (*Effective July 1, 2006*):

245 (i) The State Treasurer shall, on or before October first, annually,  
246 give an accounting of the Probate Court Administration Fund,  
247 showing the receipts and disbursements and the balance or condition  
248 thereof, as of the preceding June thirtieth, to the Connecticut Probate  
249 Assembly and to the joint standing committee of the General Assembly  
250 having cognizance of matters relating to the judiciary. Such accounting  
251 shall include an independent audit of said fund.

252 Sec. 11. Subsection (a) of section 45a-84 of the general statutes is  
253 repealed and the following is substituted in lieu thereof (*Effective July*  
254 *1, 2006*):

255 (a) On or before April first of each year, the Probate Court  
256 Administrator shall prepare a proposed budget for the next succeeding  
257 fiscal year beginning July first, for the appropriate expenditures of  
258 funds from the Probate Court Administration Fund to carry out the  
259 statutory duties of the Probate Court Administrator. The Probate Court  
260 Administrator shall submit the proposed budget to the [executive  
261 committee of the] Connecticut Probate Assembly for [review]  
262 approval. The [executive committee] Connecticut Probate Assembly  
263 shall return the [proposed] approved budget to the Probate Court  
264 Administrator no later than May first, together with its comments [and  
265 recommendations] concerning the proposed expenditures. The Probate  
266 Court Administrator shall thereafter prepare a proposed final budget,  
267 including [such changes recommended by the executive committee as  
268 the Probate Court Administrator deems appropriate] any changes  
269 made by the Connecticut Probate Assembly. On or before May  
270 fifteenth, the Probate Court Administrator shall transmit the proposed  
271 final budget to the Chief Court Administrator for approval. [, together  
272 with the comments and recommendations of the executive committee  
273 of the Probate Assembly.] On or before June fifteenth of that year, the  
274 Chief Court Administrator shall take such action on the budget, or any  
275 portion thereof, as the Chief Court Administrator deems appropriate.

276 If the Chief Court Administrator fails to act on the proposed budget on  
277 or before June fifteenth, the budget shall be deemed approved as  
278 proposed. For the budget prepared and approved under this  
279 subsection for the fiscal year ending June 30, 2007, and for each fiscal  
280 year thereafter, the percentage of any increase in the total amount of  
281 such budget over the total amount of the budget for the immediately  
282 preceding fiscal year shall not exceed the percentage of the estimated  
283 increase in the Probate Court Administration Fund for the  
284 immediately preceding fiscal year.

285 Sec. 12. Subsection (c) of section 45a-111 of the general statutes is  
286 repealed and the following is substituted in lieu thereof (*Effective July*  
287 *1, 2006*):

288 (c) If a petitioner or applicant to a court of probate claims that unless  
289 his or her obligation to pay the fees and the necessary costs of the  
290 action, including the cost of service of process, is waived, such  
291 petitioner or applicant will be deprived by reason of his or her  
292 indigency of his or her right to bring a petition or application to such  
293 court or that he or she is otherwise unable to pay the fees and  
294 necessary costs of the action, he or she may file with the clerk of such  
295 court of probate an application for waiver of payment of such fees and  
296 necessary costs. Such application shall be signed under penalty of false  
297 statement, shall state the applicant's financial circumstances, and shall  
298 identify the fees and costs sought to be waived and the approximate  
299 amount of each. If the court finds that the applicant is unable to pay  
300 such fees and costs, [it] the court shall order such fees and costs  
301 waived. If such costs include the cost of service of process, the court, in  
302 its order, shall indicate the method of service authorized and the cost  
303 of such service shall be paid from funds appropriated to the Judicial  
304 Department. [, however, if funds have not been included in the budget  
305 of the Judicial Department for such costs, such costs shall be paid from  
306 the Probate Court Administration Fund.] Any fee waived under this  
307 section shall be reimbursed to the court of probate from the funds  
308 appropriated to the Judicial Department. [, however, if funds have not  
309 been included in the budget of the Judicial Department for such

310 purposes, such payment shall be made from the Probate Court  
311 Administration Fund pursuant to rules and regulations established by  
312 the Probate Court Administrator.]"